

In the Matter of Merchant Mariner's Document No. Z-2420-D6 and all
other Certificates and Documents
Issued to: ANDREW JAMES HENDRICKS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ANDREW JAMES HENDRICKS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 13 February 1957, an Examiner of the United States Coast Guard at Long Beach, California, suspended Appellant's seaman documents upon finding him guilty of misconduct. Fourteen specifications allege, in substance, that while serving as deck engineer on board the American SS WILLAMETTE TRADER under authority of the document above described, between 1 January and 7 February 1957, Appellant wrongfully failed to perform his duties on eight different dates, he addressed vile language on three different occasions toward engineering officers on the ship, and he failed to obey the lawful orders of these officers on each of the three occasions.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and each specification, explaining that he could not remember the incidents due to sickness and drinking. The Examiner considered the pleas to be inconsistent with Appellant's statement and changed the pleas to "not guilty" on behalf of Appellant.

Thereupon, the Investigating Officer and Appellant made their opening statements. Appellant stated that he was unable to work because he was mentally and physically ill. The Investigating Officer introduced in evidence the testimony of the Master, Chief Engineer and First Assistant Engineer of the WILLAMETTE TRADER. The Shipping Articles for the voyage and entries from the ship's Official Logbook were also received in evidence.

Appellant declined the opportunity to testify under oath, to present evidence concerning his claimed mental and physical illness

or to continue the hearing until a future date. Appellant merely reiterated his statement that he was mentally and physically ill although he was declared fit for duty by a Public Health Service doctor when the ship returned to the United States.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and fourteen specifications had been proved. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-2420-D6, and all other certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of twelve months.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

From 27 November 1956 until 11 February 1957, Appellant was serving as deck engineer on board the American SS WILLAMETTE TRADER and acting under authority of his Merchant Mariner's Document No. Z-2420-D6 while the ship was on a foreign voyage.

On 2 January 1957, the ship was in the port of Mokpo, Korea. On this date, Appellant failed to perform his duties during his regular working hours from 0800 to 1700. About 1000, the Chief Engineer ordered Appellant to go on deck and oil the winches. Appellant refused to obey the order and directed vile language toward the Chief Engineer.

The ship was at Kunsan, Korea on 9 January when Appellant failed to complete his duties with respect to maintenance work on the winches. Appellant went to sleep in the afternoon and his duties were performed by another seaman.

While the ship was at sea from 14 to 16 January, inclusive, Appellant failed to perform his duties as deck engineer.

On 31 January, the ship was at sea. Appellant did not leave his room. He refused to obey the Chief Engineer's order to do some specific work on the winches. Appellant again addressed the Chief Engineer with vile language.

The ship was at sea on 1 February when the First Assistant Engineer knocked at Appellant's door at 0800 and ordered him to turn to. Appellant opened the door, directed vile language toward the First Assistant, refused to obey the order and did not turn to on that day.

The ship was approaching San Pedro, California, on 6 February. Appellant was called in the morning but he refused to perform his duties or leave his room. Finally, Appellant went to the Master's quarters with a packed suitcase and stated that he wanted to sleep in the ship's hospital because members of the crew wanted to kill him.

On the dates of these offenses, Appellant was either under the influence of alcohol or suffering from the after effects of prolonged drinking. Usually, Appellant remained on his bunk when in either of these conditions.

Appellant's prior record consists of a probationary suspension in 1943, an admonition in 1944 and another probationary suspension in 1945.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that Appellant was in need of medical care at all times alleged in the specifications and he is now hospitalized in the Marine Hospital at Seattle for this same illness of acute alcoholism. As a result of this illness, Appellant was unable to prepare his defense properly at the hearing. Appellant believes he was poisoned just prior to the commencement of the alleged offenses. Appellant has been in the Merchant Marine Service for seventeen years, he has had no difficulties between 1945 and the present time, and he has no other livelihood.

APPEARANCE ON APPEAL: Messrs. Durham & Guimont of Seattle, Washington.

The evidence constitutes substantial evidence in support of the fourteen specifications. The Master, Chief Engineer and First Assistant Engineer testified that they believed Appellant's condition was due wholly to excessive drinking of alcoholic beverages. Voluntary intoxication is not a good defense for acts of misconduct since the inability to act properly arises from one's own prior misconduct. Also, the testimony shows that Appellant did not at any time request permission from the Master or Chief Engineer to go ashore for medical treatment; and that Appellant's condition was normal during interim periods of sobriety. During the hearing, Appellant made the statement that he was found fit by a Public Health Service doctor after the ship's return to this country. Appellant failed to take advantage of the ample opportunity afforded at the hearing to present evidence in support of his claimed mental and physical illness. Hence, it is my opinion that the alleged offenses resulted either directly from excessive drinking or the after effects known as delirium tremens.

Appellant's duties as deck engineer included the very important one of maintaining the deck winches in operating condition for the loading and discharging of cargo. As stated by the Examiner, Appellant not only showed an extreme lack of responsibility for his duties but he was guilty of serious breaches of discipline toward the ship's officers when he refused to obey their orders. In addition, Appellant's language to these officers constituted gross disrespect for proper authority. These flagrant infractions made Appellant a potential hazard to the safety of all as well as to the ship and her cargo. Under these circumstances, it is felt that the order of twelve months' suspension was justified despite Appellant's clear record since 1945.

ORDER

The order of the Examiner dated at Long Beach, California, on 13 February 1957, is AFFIRMED.

J.A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 21st day of August, 1957.